86

1022

86

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054

No. F.DE.15 (252)/PSB/2019 / 1320-1324 Dated: 29/03/19

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized Schools in Delhi' and directed that the private unaided Schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid Schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided Schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:

"27....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the Schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the Schools.......

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3),18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Indraprastha International School, Sector-10, Dwarka, New Delhi (School Id: 1821180)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7th CPC.

AND WHEREAS, in order to ensure that the proposals submitted by the Schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee proposals of the School very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, necessary records and explanations were also called from the School vide email dated March 27, 2018. Further, School was also provided opportunity of being heard on July 3, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, School was further asked to submit necessary documents and clarifications on various issues noted.

AND WHEREAS, the reply of the School, documents uploaded on the web portal for fee increase and subsequent documents submitted by the School were evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

I. As per clause 2 of public notice dated May 4, 1997, school not to charge Building Fund and Development Charges when the building is complete or otherwise as it is the responsibility of society who has established the school to raise such funds from their own resources or donations from other associations because immovable property of the school becomes the property of the society. Additionally, the Hon'ble Supreme Court of India held in the matter of *Modern School vs Union of India and Others* that the capital expenditure will be a charge on savings and therefore, capital expenditure cannot constitute a component of the financial fee structure of the School. Further, as per Rule 177 of DSER, 1973, income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. And the aforesaid savings shall be arrived at after providing for the following, namely:

a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
b) The needed expansion of the school or any expenditure of a developmental nature;
c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
d) Co-curricular activities of the students;
e) Reasonable reserve fund, not being less than ten percent, of such savings.

However, on review of financial statements for 2015-16 and 2016-17 it has been noted that school funds were utilised towards addition to building for Rs. 72,24,899 and Rs. 44,46,979 respectively. Thus, the School has not complied with aforesaid provisions and court judgement. Building is the responsibility of the society and thus, amount utilised for construction/renovation of building is recoverable from the society and as a result has been considered as part of fund available with the School.

II. As per section 18(4) of DSEA, 1973 Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed. However, on review of financial statements, it is noted that the school fund was utilised for purchase of luxury car for Rs. 31,24,572 during FY 2015-16, which cannot be considered as educational purpose. During discussion, school was asked to provide the detail related to car purchased along with source of finance, however, the school has not submitted the same as yet. The school fund utilised for purchase of car is recoverable from the Society. Therefore, the same has been considered in the calculation of fund availability of the school.

III. On review of financial statements for FY 2015-16 and 2016-17, it has been noted that the Financial Statements prepared by the School were not prepared in accordance with GN-21 Accounting by Schools issued by ICAI. As per financial statements, fixed assets have been shown as purchased out of development fund and depreciation reserve fund. However, upon adding these utilisations for Fixed assets and further comparing the same with the additions made to Fixed assets during the year, it has been established that fixed assets have also been purchased from other funds but it has not been properly disclosed in the financial statements of the School. The School is instructed to prepare its financial statements in accordance with GN-21 and show its fixed assets in proper manner. The details of additions as per Fixed assets schedule and utilisation of Development fund and Depreciation reserve fund for Fixed assets are as follow:

1026

(Figures in Rs.)

Particulars	As per audited Financial Statements of FY 2015-16	As per audited Financial Statements of FY 2016-17
Total of Fixed assets purchased during the year (as per Fixed assets schedule)	2,14,09,981	2,33,67,240
Less: Fixed assets purchased out of Development fund	1,38,01,205	1,45,95,015
Less: Fixed assets purchased out of Depreciation reserve fund	47,59,839	42,98,852
Difference	**28,48,937**	**44,73,373**

IV. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, "Development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, up-gradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged shall be treated as capital receipt and shall be collected only if the school is maintaining depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept in separately maintained development fund account. However, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17 following points have been observed:

a. During the FY 2014-15, 2015-16 and 2016-17, school has utilised development fund for revenue expenditures, purchase of car, bus, library books and repayment of car loan. Thus, the School is not complying with aforesaid provisions as a result of which these amounts need to be added back to the Development fund by School. As per School's submission, the details of utilisation of Development fund for other than specified purposes are as under:

(Figures in Rs.)

Particular	2014-15	2015-16	2016-17	Total
Capital Expenditure incurred out of Development Fund				
Bus	14,27,133	-	32,81,700	**47,08,833**
Car Etios	6,33,141	30,56,847	-	**36,89,988**
Library books	1,86,558	2,61,074	2,29,972	**6,77,604**
Building		72,24,899	44,46,979	**1,16,71,878**
Repayment of Car Loan	-	-	9,60,000	**9,60,000**
Total Capital Expenditure	**22,46,832**	**1,05,42,820**	**89,18,651**	**2,17,08,303**
Revenue Expenditure incurred out of Development Fund				
Revenue Expenditure	56,97,828	27,46,466	27,82,085	**1,12,26,379**
Educom hardware liability	-	-	4,32,048	**4,32,048**
Total Revenue Expenditure	**56,97,828**	**27,46,466**	**32,14,133**	**1,16,58,427**
Total	**79,44,660**	**1,32,89,286**	**1,21,32,784**	**3,33,66,730**

b. It has been noted that the school has shown fixed assets at the written down value in its Balance Sheet. Further, the depreciation reserve fund has also been shown in the liability side of the Balance sheet. It implies that depreciation reserve fund has been charged twice in the financial statements. First, by charging depreciation in the income and expenditure account and secondly, by charging depreciation from the development fund account. In FY 2014-15, 2015-16 and 2016-17, Development fund amounting Rs. 24,00,000, Rs. 47,50,000 and Rs. 40,11,069 respectively has been transferred to depreciation reserve fund. Thus, School is not complying with aforesaid provisions. The depreciation reserve fund so created out of development fund has been considered as free reserve.

V. In respect of earmarked levies, school is required to comply with:

a. Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;

b. Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';

c. Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India & others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

In FY 2015-16 and 2016-17, the school has collected earmarked levies namely i.e. transport fee, swimming fee and smart class/ safety security and hygiene & health from the students but these levies were not charged on 'no profit no loss' basis as the school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated surplus on account of transport fee and incurred loss under swimming fee and smart class/ safety security and hygiene & health. Therefore, the School is directed to follow funds based accounting for earmarked levies.

Further, as per Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" levied at the time of admission such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

However, it is noticed that Pupil fund has been collected by the school from each student and thus, the school has contravened the aforesaid recommendation and orders. Thus, School is directed to stop the collection of Pupil fund.

VI. As per Para 99 of Guidance note on "Accounting by School" issued by ICAI, relating to restricted fund, "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year".

Taking cognisance from the above para, school should have considered the development fund utilisation account as deferred income to the extent of cost of assets purchased out of development fund and should have transferred the amount to the credit of Income & Expenditure account in proportion to the depreciation charged from this deferred income account. However, it is noted that School has not created 'Development Fund Utilization Account' for the assets purchased out of the Development fund and thus, has not transferred any amount from this utilisation account to the credit of Income and Expenditure account in proportion of depreciation charged during the year. Thus, the School has not followed aforesaid para 99 of the Guidance Note-21: Accounting by Schools as issued by ICAI. The School is instructed to follow GN – 21. Further, the School is debiting the Development fund account and crediting the General Reserve fund account with the amount utilised for purchase of fixed assets. This results into overstatement of General Reserve Fund. Also, the School has purchased Fixed assets out of the Depreciation reserve fund account. School is debiting the Depreciation reserve fund account and crediting the General Reserve fund account with the amount utilised for purchase of Fixed assets. This also results into overstatement of General Reserve fund. Accordingly, School is directed to make necessary adjustments in General reserve fund, Development fund and Depreciation Reserve fund. The detail of Fixed assets purchased out of Development fund and Depreciation reserve fund are as follow:

(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Fixed Assets purchased out of Development fund and credited to General Reserve fund	1,15,98,355	1,38,01,205	1,45,95,015	**3,99,94,575**
Fixed Assets purchased out of Depreciation reserve fund and credited to General Reserve fund	23,30,577	47,59,839	42,98,852	**1,13,89,268**

1030

Other Irregularities

I. As per DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and condition of land allotment letter the school is required to provide 25% admission to the children belonging to EWS/DG category at the entry level. However, as per returns filed by the school under rule 180 and fee reconciliation statement submitted by school, the school is not complying with the aforesaid provisions. The DDE (District) is to look into this matter. The details of admission provided under EWS/ DG category is as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total no. of students in school	-	2522	2555
Total EWS students	110	131	139
% of EWS students to total no. of Students	0.00%	5.19%	5.44%

Note: School has not provided the total strength of the school for the FY 2014-15.

II. The school is charging depreciation on fixed assets as per the rates as prescribed under the Income Tax Act, 1961 instead of rates as specified in Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). School should follow the depreciation rates as prescribed the Guidance Note-21 "Accounting by Schools".

III. As per Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009, no Caution Money/ Security Deposit of more than Rs. 500 per student shall be charged. The Caution Money, thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he /she request for a refund. However, as per explanation given by the School, interest earned on caution money is not refunded to the students at the time of leaving the school. The School is directed to follow the aforesaid provisions.

After detailed examination of all the material on record and considering the clarification submitted by the School, it was finally evaluated/ concluded that:

1031

i. The total funds available for the FY 2017-18 amounting to **Rs. 30,56,55,661** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 30,81,20,727**. This results in deficit of **Rs. 24,65,067**. The details are as follows:

(Figures in Rs.)

Particulars	**Amount**	**Remarks**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	16,55,468	
Investments as on 31.03.17 as per audited Financial Statements	8,83,156	
Add: Recoverable from society on account of Addition made to building	1,16,71,878	Refer observation no I in Financial irregularities
Add: Recoverable from society on account of purchase of car during the FY 2015-16	31,24,572	Refer observation no II Financial irregularities
Less: Caution Money balance as on 31.03.2017	8,70,000	
Less: Development fund balance as on 31.03.2017	52,584	
Less: Investment in name of Director of Education & Manager of the school	4,12,568	
Less: Investment in name of Secretary, CBSE and Manager of the school	4,70,588	
Total	**1,55,29,334**	
Fees for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	28,81,41,791	
Other income for FY 2016-17 as per audited Financial Statements	19,84,535	
Estimated availability of funds for FY 2017-18	**30,56,55,661**	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	30,81,20,727	Refer Note1,2 and 3
Estimated Deficit	**24,65,067**	

1032

Adjustments:

Note 1:

a) The provision for Gratuity and leave encashment of Rs 1,58,84,112/-and Rs 31,34,604/- respectively has not been considered in the budget for FY 2017-18, since the same is not supported by actuarial valuation report. Further, School has budgeted for housekeeping expenses amounting Rs. 2,11,66,800 for FY 2017-18. The sample copy of invoices submitted by the school were evaluated and it is noted that GST no. was not mentioned on those invoices and thus, these expenses have not been considered in the aforesaid calculations.

b) The school has budgeted the salary expenditure including the impact of recommendations of 7th CPC. The increase in budgeted salary proposed by the school is more than 81% of the actual salary expenditure for FY 2016-17 but failed to provide the justification for such increase. Thus, increase in salary has been considered upto 10% and amount of arrears of salary has been considered upto 30% only. The balance amount has been disallowed. The details of the same are as follow:

(Figures in Rs.)

Particular	**FY 2016-17**	**FY 2017-18**
Salary	9,55,29,871	11,81,77,276
Salary arrear due to 7th CPC		
(01.01.2016-31.03.2016)	-	38,78,379
(01.04.2016-31.03.2017)	-	1,73,37,518
(01.04.2017-30.06.2017)	-	55,64,714
(01.07.2017-30.11.2017)	-	1,53,74,404
(01.12.2017-31.03.2018)	-	1,29,56,504
Total	**9,55,29,871**	**17,32,88,795**
Increase in salaries		7,77,58,924
Percentage increase in salaries		81%
Expenditure allowed (40% increase allowed)		13,37,41,819
Expenditure disallowed		**3,95,46,976**

Note 2: Under the following heads the school has proposed increase in expenditure in excess of 10% of the actual expenditure incurred in the FY 2016-17 or has proposed new head of expenditures which were not there in the FY 2016-17, for which the school has

not been able to provide any satisfactory explanation/ justification. Since FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened, therefore, the aforesaid expenditure in excess of 10% and expenditure under new heads have not been considered in the evaluation of fee increase proposal.

(Figures in Rs.)

Particulars	Actual Expenses (2016-17)	Budgeted Expenses (2017-18)	Net Increase/ (Decrease)	Percentage Change	Expenditure allowed	Disallowed
Annual day expenses (Senior)	-	44,46,356	44,46,356	100%	-	44,46,356
Costume, dresses and makeup	-	38,55,250	38,55,250	100%	-	38,55,250
Day Picnic & Excursion Expenses	-	17,55,000	17,55,000	100%	-	17,55,000
Summer Camp Activities	-	15,41,400	15,41,400	100%	-	15,41,400
Educomp Smart class Expenses	37,00,775	72,98,000	35,97,225	97%	40,70,853	32,27,148
Space Exploration Classes	44,75,250	63,18,000	18,42,750	41%	49,22,775	13,95,225
Total						**1,62,20,379**

Note 3:

a) In the budget for the FY 2017-18, the School has proposed for replacement of bus amounting Rs. 11,40,000. As per Rule 177 of DSER, 1973 read with judgement of Hon'ble Supreme Court in the matter of Modern School vs Union of India and Others capital expenditure cannot form part of financial fee structure of the School. Therefore, the aforesaid capital expenditure has not been allowed in above calculations. Further, School has proposed to incur following expenditure relating to building. As per clause 2 of Public Notice dated 04.05.1997, construction of building is the responsibility of the society and same cannot be recovered from the students by the school. Hence same has not been considered for the purpose of fee increase proposal of the FY 2017-18. The details of expenditure relating to building proposed by School are as follow:

(Figures in Rs.)

Particulars	**Amount**
Infrastructure Up gradation Expenses	40,00,000
Installation of lift	20,00,000
Relaying Imported artificial grass	12,00,000
Swimming pool shifting expenses	60,00,000
Sports field Development	20,00,000
Total	**1,52,00,000**

b) The amount proposed by school for repayment of loan taken for vehicle amounting Rs 7,59,468 in financial year 2017-18 is not considered in above calculation.

ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/ reserves. In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 dated 16/04/2010 that,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that though certain financial irregularities exist (appropriate financial impact of which has been taken on the fund position of the School) and certain procedural finding noted (appropriate instruction against which have been given in this order), the fee increase proposal of the School may be accepted.

AND WHEREAS, it is also noticed that the school funds have been utilized for construction of building amounting Rs. 1,16,71,878 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Also, School fund was used for purchase of car amounting Rs. 31,24,572. Total amount to be recovered by the school from society is Rs. 1,47,96,450. The amount of receipts along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within sixty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, recommendations of the team of Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found it appropriate to allow the increase in tuition fee by 5% from 01 April, 2019.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Indraprastha International School, Sector-10, Dwarka, New Delhi (School Id: 1821180)** has been accepted by the Director of Education with effect from April 01, 2019 and the School is hereby allowed to increase the tuition fee by 5%. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. To increase the tuition fee only by the prescribed percentage from the specified date.

2. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

3. To ensure implementation of recommendations of 7th CPC in accordance with Directorate order dated 25.08.2017.

4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India and others. Therefore, School not to include capital expenditure as a component of fee structure to be submitted by the School under section 17(3) of DSEA, 1973.

5. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

1036

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of section 24(4) of DSEA, 1973 and DSER, 1973.

This is issued with the prior approval of the Competent Authority.

(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To

The Manager/ HoS
Indraprastha International School, Sector-10, Dwarka, New Delhi (School Id: 1821180)

No. F.DE.15 (252)/PSB/2019/1320-1324 Dated: 29/03/19

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi